

SBK
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FILED

JUL 25 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name THOMAS, JAMES EDWARD
(Last) (First) (Initial)

Prisoner Number E-21197/A-464B1d/PSU, C.N. 120/POB N. 290066

Institutional Address C.S.P. AT SACRAMENTO/FOLSOM

REPRESA, CALIFORNIA, 95670-0066

SBA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CV 08

3565

THOMAS, JAMES EDWARD

(Enter the full name of plaintiff in this action.)

Pro. Per -
Awaiting Ct. App.
- of Competent
Counselor

VS.

WALKER, WARDEN AT FOR

C.S.P. AT SACRAMENTO/FOLSOM

THE COUNTY OF SANTA CLARA

THE CAL. STATE ATTY. GEN.

(Enter the full name of respondent(s) or jailor in this action)

ORIG. PET. TO US FDO CT.

(CONTAINS 149 P. 1.)

Case No. CV-04-08-178-SBA
(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS**

Read Comments Carefully Before Filling In

When and Where to File

107-14-08
CSP 609-61642-120 Filed by Rtd. Any & sp. 105

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b). P. 2

1 Complete all applicable questions in the proper blank spaces. If you need additional space to
2 answer a question, you may attach additional blank pages. Make clear the question to which any such
continued answer refers.

3 Only one sentence or conviction may be challenged in a single petition. If you challenge more
4 than one, you must do so by separate petitions.

5 V. After Petition Is Filed

6 You will be notified as soon as the court issues an order. It is your responsibility to keep the
7 court informed of any changes of address to ensure that you receive court orders. Failure to do so may
result in dismissal of your suit.

8 VI. Inquiries And Copying Requests

9 Because of the large volume of cases filed by inmates in this court and limited court resources,
10 the court will not answer inquiries concerning the status of your case or provide copies of documents,
except at a charge of fifty cents (\$0.50) per page. You must therefore keep copies of all documents
submitted to the court for your own records.

3. Did you have any of the following?

Arraignment: Yes X No
 Preliminary Hearing: Yes X No
 Motion to Suppress: Yes X No

4. How did you plead?

Guilty Not Guilty X Nolo Contendere

Any other plea (specify) NONE - N/A.

5. If you went to trial, what kind of trial did you have?

Jury X Judge alone Judge alone on a transcript

6. Did you testify at your trial?

Yes No X

7. Did you have an attorney at the following proceedings:

(a) Arraignment

Yes No X

(b) Preliminary hearing

Yes Same No ✓

(c) Time of plea

Yes Same No ✓

(d) Trial

Yes Same No ✓

(e) Sentencing

Yes Same No ✓

(f) Appeal

Yes Same No ✓

(g) Other post-conviction proceeding

Yes Same No ✓

8. Did you appeal your conviction?

Yes X No

(a) If you did, to what court(s) did you appeal?

Court of Appeal same 6th Dist.?? Yes ✓ No ✓

Year: 03-10-06 Result: AFTER almost 3 yrs delay, claimed only

Supreme Court of California Tried Yes X No

Year: 10-18-07 Result: Denied

Any other court U.S. Fed Dist. Ct. Yes X No

Year: 04-02-08 Result: Still Pending, Awaitng Verified Test Stmt.

(b) If you appealed, were the grounds the same as those that you are raising in this

(4)

petition? Not Exactly / A lot - Yes ☒ No ☒
 (c) Was there an opinion? Yes ☒ No ☒
get together but, used only to show deliberate conflict of interest of Co. Paid for by Dep?
- No yet, Pending -

(d) Did you seek permission to file a late appeal under Rule 31(a)?
No - But, I sent one in just in case - w - no
 Yes ☒ No ☒
words from D.P.O.

If you did, give the name of the court and the result:

Calif. State Supreme Court / 350 McAllister St, San Francisco, Cal.

Superior Ct. Dept. 36 / 190 W. Hedding St / San Jose, Cal. 95128

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal?
Tried Futility - TA VECR -
 Yes ☒ No ☐

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28

U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: N.A.

Type of Proceeding: N.A.

Grounds raised (Be brief but specific):

a. N.A.

b. N.A.

c. N.A.

d. N.A.

Result: N.A.

Date of Result: N.A.

II. Name of Court: N.A.

Type of Proceeding: N.A.

Grounds raised (Be brief but specific):

(P. 4)

a. N/A.

b. _____

c. _____

d. _____

Result: N/A.

Date of Result: N/A.

III.

Name of Court: N/A.

Type of Proceeding: N/A.

Grounds raised (Be brief but specific):

a. N/A.

b. _____

c. _____

d. _____

Result: _____ Date of Result: _____

IV.

Name of Court: N/A.

Type of Proceeding: N/A.

Grounds raised (Be brief but specific):

a. N/A.

b. _____

c. _____

d. _____

Result: N/A. Date of Result: N/A.

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?
HOPEFULLY THIS COURT. Yes X No _____

Name and location of court: FED. U.S. DIST. CT., Northern Dist. OF CALIF., CAL.

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

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;

List, by name and citation only, any cases that you think are close factually to yours so that they are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning of these cases:

Douglas vs. Calif., (1966) - U.S. Supreme Ct. R45.?, Page - ?/Peo. v. Mar-
ston, (1970), 1 C. 3rd, P. 118; Peo. v. Molina, (1977) P. 24, P. 544; Cuyler v. Sullivan, (1980),
446 U.S., P. 335; Peo. v. Massaro, (2003), 556 F.2d, P. 714/Peo. v. Johnson, (1950), 222 P. 2d,
P. 335; Peo. v. Moore, (1961), 16 C.R., P. 777; C.E. - Peo. v. Pat Miller, (1934), 138 C.A., P. 854.
 Do you have an attorney for this petition? Yes _____ No X

If you do, give the name and address of your attorney: Se. C12. Co.]
Mark Popov-Campari - D.P.O. - Atty-At-Law - David D. Martin, Esq. Atty-At-Law -
The Dep. Pub. Def. of 720 W. Mission St., San Jose/APPIS. C12. OF 622 629 629 629, Atty. C21.

WHEREFORE, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding. I verify under penalty of perjury that the foregoing is true and correct. To The Best of my knowledge - I believe - as to those belief on my info, only I also, believe to be true!

Executed on 8-14-08

Date (07-14-08)

Atty-At-Law

JAMES EDWARD THOMAS
 Signature of Petitioner

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THOMAS, JAMES EDWARD
Plaintiff,

vs.

WALKER, J., WARDEN OF CS, P. SAC/Asst.
Defendant.

CASE NO. 04:08-cv-1718-SBA

PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS

I, James Edward Thomas, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes ___ No X

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: N/A Net: N/A
Employer: N/A

If the answer is "no," state the date of last employment and the amount of the gross and net salary

1 and wages per month which you received. (If you are imprisoned, specify the last place of
2 employment prior to imprisonment.)

3 I ONLY WORKED FOR APX. TWO (2) WEEKS IN JAN/FEB. OF 2001 AT FOR MEDIA
4 ONE ADVERTISING AGENCY - AT 81 N. 2ND STREET, SAN JOSE, CALIF. 95112 - - -
5 DON'T REMEMBER CORRECT AMTS. OF PAYMENTS BUT, ROUGHLY - W. SENTENCE APX [600.00]

6 2. Have you received, within the past twelve (12) months, any money from any of the following
7 sources:

- 8 a. Business, Profession or Yes ___ No X
9 self employment
- 10 b. Income from stocks, bonds, Yes ___ No X
11 or royalties?
- 12 c. Rent payments? Yes ___ No X
- 13 d. Pensions, annuities, or Yes ___ No X
14 life insurance payments?
- 15 e. Federal or State welfare payments, Yes ___ No X
16 Social Security or other govern- - N/A/NO-
17 ment source?

18 If the answer is "yes" to any of the above, describe each source of money and state the amount
19 received from each.

20 N/A. / / / /
21 / / / /

22 3. Are you married? Yes ___ No X

23 Spouse's Full Name: N/A. / / /

24 Spouse's Place of Employment: N/A. / / /

25 Spouse's Monthly Salary, Wages or Income:

26 Gross \$ N/A. / / / / Net \$ N/A. / / / /

27 4. a. List amount you contribute to your spouse's support: \$ None / / /

28 b. List the persons other than your spouse who are dependent upon you for support

and indicate how much you contribute toward their support. (NOTE: For minor children, list only their initials and ages. DO NOT INCLUDE THEIR NAMES.).

N/A.

N/A.

5. Do you own or are you buying a home? Yes ___ No X

Estimated Market Value: \$ N/A. / / Amount of Mortgage: \$ N/A. / /

6. Do you own an automobile? Yes ___ No X

Make N/A. / / Year N/A. / / Model N/A. / /

Is it financed? Yes N/A No ___ If so, Total due: \$ N/A

Monthly Payment: \$ N/A. / /

7. Do you have a bank account? Yes X No X (Do not include account numbers.) UNK.

Name(s) and address(es) of bank: BANK OF AMERICA 125 So. Market St. / No. 22

THE MUSEUM OF ART / THE FARMINGTON HOTEL / CESAR CHAVEZ'S PL 22 / WELL FLYGO BANK, S.J. 22

Present balance(s): \$ UNK. NOW A MUCH TOO SMALL TO BE ADEQUATE TO PAY FOR LT. COST / ATTY.

Do you own any cash? Yes X No ___ Amount: \$ 1900.00

Do you have any other assets? (If "yes," provide a description of each asset and its estimated market value.) Yes X No ___

THE ARREST OF OFF. (WINDO) DELIBERATELY STOLE / CONFISCATED (15) OF MY \$1800.00 (2RRIED ON A PERSON)

DEFINITE BY NOT AVOID (26) I HAVE TRIED (N/A) - HE REFUSED TO WORK ON B.T. SH. AND/OR P.P.?

SEE ATTACHED EXHIBITS A

8. What are your monthly expenses?

Rent: \$ None (Award of State) Utilities: N/A. / /

Food: \$ N/A / / Clothing: N/A. / /

Charge Accounts:

Name of Account	Monthly Payment	Total Owed on This Acct.
<u>N/A.</u> / /	\$ <u>N/A.</u> / /	\$ <u>N/A.</u> / /
<u>N/A.</u> / /	\$ <u>N/A.</u> / /	\$ <u>N/A.</u> / /
<u>N/A.</u> / /	\$ <u>N/A.</u> / /	\$ <u>N/A.</u> / /

9. Do you have any other debts? (List current obligations, indicating amounts and to whom they are payable. Do not include account numbers.) (P. 10)

I HAVE FUNDS OWED / CONFISCATED FROM (ON MY 2YR. IN 2003) BY 2 KATE, INT. OF PERSECUTION

12-11-04 - M. DETER - THE M-OF - RESIDENCE OF KEYS

IN FOR MY RELEASE

1 ONLY A VERY SMALL OBLIGATORY PRISON MIS-INDEBTERLY ACQUIRED I.O.U. FOR THE
 2 LOST OF STATE L.B. BOOK TEMPORARILY IN MY CARE.

3 10. Does the complaint which you are seeking to file raise claims that have been presented in
 4 other lawsuits? NOT ENTIRELY. NO NEW SUIT IS CONTEMPLATED AT THIS TIME, ONLY CONCERN
TO ATTRIBUTIOUS WRONG WITH TRYING TO RIGHT

5 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in which
 6 they were filed.

7 N/A. / / / / /
 8

9 I consent to prison officials withdrawing from my trust account and paying to the court the
 10 initial partial filing fee and all installment payments required by the court.

11 I declare under the penalty of perjury that the foregoing is true and correct and understand
 12 that a false statement herein may result in the dismissal of my claims. YES - BUT VERY DILIGENT NO FURTHER

13
 14 07-14-08

15 DATE
 16 (07-14-08)

[Signature]
 17 James Edward Thomas
 18 SIGNATURE OF APPLICANT

21
 22
 23
 24 (P I D)
 25
 26
 27
 28

Case Number: 04:08-cv-1778-SBA
- US Dist For NYW D-DC 26 -

CERTIFICATE OF FUNDS
 IN
 PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of None - No Funds here-in ^{- Ave. 12610} for the last six months at

CSP At Sec/Fol., Represe, Cel. F. [prisoner name]
Thomas, James Edward / F-2197 where (s)he is confined.
 [name of institution]

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ None. 11 and the average balance in the prisoner's account each month for the most recent 6-month period was \$ None. 11.

Dated: _____

X

Prison Officials Fltly Refused
 [Authorized officer of the institution]

None Allowed
Provided

(P. 12)

(0)

ADDITIONAL REVELATION(S) TO
THE PROSECUTION'S DELIBERATELY,
WANTONLY RESORTING TO BAD-FAITH
WITH INTENTIONAL MIS-CONDUCT(S)
TO JUSTIFY A VERY TAINTED UN-JUST-
IFIED / PRE-FABRICATED CONVICTION
THRU DIRE TRICKERY / UN-LAWFULLY
ILLEGAL-USE-OF DIS-SIMILAR/-
UN-ALLOWABLE PRIOR RAPE CONV.
VIA / BY WAY OF EXHIBIT(S) NO.

"A"[PER / CONSISTING-OF-TWO (2) PGS.]EXHIBITS(P. 13)

1. BLACK'S/DEFINING/WITHIN'S DEFINITION'S OF THE
2. CALIFORNIA PENAL CODE(S), STATE LAW SECTION(S):
3. Expected- AS PER STATED/USED IN/FOR ALL (CITIZENS)-[INFER.MINE]:
4. Thomas, H.C. USDC, N.R.N. DA, CAL.-CN.- 04:08-cv-01778- SBA.
5. 459 C.P.C.; Burglary-In-The-First Degree: "The Un-lawful Entry
6. INTO AN OCCUPIED DWELLING, IN THE NIGHT TIME-W- THE SPECIFIC
7. -INTENT TO DEPRIVE IT'S OWNERS OF (THEIR) PROPERTY PERMAN-
8. ently. BUT, IN ORDER TO PROVE SAME, THE SAID ACCUSED PERPETRATOR
9. HAVE TO HAVE HAD THE SHOWN SPECIFIC INTENT THAT LARCENY
10. WAS, DEFINATELY, (HIS) INTENT-N-WAS CAUGHT/SEEN-IN- THE
11. POSSESSION OF SAID INTENDED ITEM(S) AT THE TIME(S) OF APPRE-
12. HENSION - - - AND, DEFINATELY, NOT ONLY AN ASSUMPTIVE GUESSIBLE
13. POSSIBILITY, HOW-EVER SLIGHT, BUT-TO-PASS, ASSERTIVELY POSSIBLE - ^{OR HUMANLY} _{ABLE} ^{NOT SHOWN}
- 14.
15. 220 C.P.C.; Assault-W-Intent-To-Rape: "BEFORE IT IS EVEN A POSSIBILITY,
16. IN ORDER TO SUSTAIN AN ACCUSATIONAL CHARGE, HOW-EVER-ILL-FEASIBLE/RE-
17. ASONABLE, THE PROSECUTOR HAS TO SHOW-W/O-A DOUBT, THAT AN IN-
18. TRUDER/ACCUSED HAD THE SPECIFIC INTENT, DENT-ON- SEXUAL GRATIFICATION
19. ON/WITH A (FROM AN UN-WILLING [FEMALE] VICTIM, AGAINST (HER) WILL-N- SUCH
20. AN INTENT HAS TO BE MANIFESTED BY THE INTENTIONAL/MENACINGLY TOUCH-
21. ING- AND/OR FEELING (HER) PRIVATE PART(S) - - - DEFINATELY, HAS TO MAKE PHYSICAL
22. CONTACT/OR VERBALIZED-W/O-A DOUBT(S) - - - AND, DEFINATELY, NOT IF (HE)
23. GET'S APPREHENDED IN AN AREA, SOME-WHERE, NEAR A WOULD-HAVE-BEEN, BURG-
24. LARIZED APT., WHERE AN INTRUDER, PURPORTEDLY, WAS OBSERVED, IN DARKNESS,
25. STANDING AWAY FROM THE FOOT-OF-A-BED, FRANTICALLY SKYWARDS/UP-N-DOWN
26. SIDEWAYS - - - W/O-ANY CONTACT [BODILY OR OTHER-WISE] NO VERBALIZATIONS(S)
27. WAS REPORTIDLY WEARING A LIGHT GREEN TOP-W- A BLACK-N-WHITE BASE-BALL CAP-N-
28. DEFT. COMES ALONG, TRYING TO AVOID THE TOO/ALWAYS MENACING/CLOSELY SURVEILLANCE POL.DRYNET
29. GETS) UP-AVOIDABLY -N- MOST BRUTALLY ARRESTED-N- CHARGED FOR SAME (WEARING A DARK
30. GREY-N-PINK SWEATER -W/O- ANY HEAD COVERING, WHAT-SO-EVER/NO FINGERPRINTS FROM
31. SAID RESIDENT. MATCHED (HIS) /NO COVERING-ON-HANDS/ WAS ONLY FRAMED REASONED FALSE PRISON

(CONT. FROM PAGE No. 1, C.P.C. LAW)

- 1.
- 2.
3. 647- H-I-J, C.P.C. - Prowling / Peeping For The Specific Intent To Commit
4. Burglary: "As Cal. Law Now / Always Stand - In Order To Support - n - Sustain AN
5. ACCUSATION OF MIS-CONTRIVED / TOO PURPOSEFULLY ENTRAPABLE PROWLING - n - PEEP-
6. ING FOR - THE PURPOSE OF COMMITTING BURGLARY, IT HAS TO BE SHOWN / OR
7. DEFINATELY, PROVEN THAT AN ACCUSED WAS IN A POSITION / HAD A CLEAR VIEW
8. 2+ ANY SUCH PEEPABLE OBJECT - n - HAS TO BE FULLY PROVABLE - w - RELIABLE
9. EYE-WITNESSES. --- IT'S, TOO, HIGHLY UN-LIKELY, THAT A / ANY DEFT. / SPITEFULLY ACCUSED
10. OF ANY SUCH PEEPING OR PROWLING ONLY BY BEING FORCED - IN - AN - AREA BY TOO
11. HAZARDOUSLY / TOO CLOSELY SURVEILLING / VINDICTIVE POLICE, FOR THE SPECIFIC
12. INTENT OF CREATING ANY SUCH CRIMINAL MIS-BEHAVORIAL MIS-CONDUCT IN ORDER
13. TO, MAYBE - SOME - HOW, SUPPORT A RE-FILEING ON THOSE DISMISSED FELONY CHARGES - OF
14. PSEUDO BURGLARY - n - 220 C.P.C. ASSUMPTIONS - w/o - ANY NEW EVIDENCE. --- WHERE DEFT.
15. IS ONLY SEEN / APPREHENDED WALKING ON A, TOO WELL LIGHTED DRIVE-WAY - n - THE SAID
16. POLICE HAD SET-UP ON THE OPPOSITE STREET TRYING FOR (HIM) TO RE-APPEAR. --- NOTING
17. THAT A VERY STRANGE / WEIRD PARTY APPEARED AT THE PRELIM. HEARING CLAIMING THAT (HE)
18. WAS PARKED OUT-FRONT NEXT DOOR - n - OBSERVED DEFT. PLACE ARMS / HANDS - w - SWEATER SLEAVE
19. OVER EYES - n - LARGE BLACK BAG. PEEPING THRU AN / A FULLY SHEDDED / UN - PEEPABLE CLOSED
20. WINDOW [SIDE] - n - SKY-WINDOW OVER FRONT DOOR. NOTING THAT DUE TO AN INDEP. INVEST.
21. IT WAS HEARDED THAT (HE) WAS, AT LEAST, (6) HOUSES TO THE NW. UN-OBSERVABLE OF S. SIDE
22. AND THE ATT. OFF. SWORE UP - n - DOWN THAT (HE) SAW DEFT. --- NO BURGL. TOOLS / DEF. NO STOP LADDER - "
23. C.P.C.'S LAWFUL / ACCEPTABLE / PROPER ID. : IN ORDER FOR THE PROS. TO PROVE THAT A / ANY
24. WITNESS'S ID: IS CLEAR - n - CONVINCING. --- "IT HAS TO BE AN / A RECHINABLE / TRUTHFULL
25. FACT THAT SUCH AN EYE-WITNESS HAS TO BE IN A POSITION TO OBSERVE A SUSPECT IN ADEQU-
26. UATELY LIGHT - w - OBSTRUCTION SO THAT THE SAID ID. IS CONVINCING. --- DEFINATELY / ABSOLUTELY, NOT
27. IN DARKNESS [TWICE] - n - BEING PLACED - IN - JAIL / HC HOLDING CELL - w - AN ACCUSED FOR THE PURPOSE OF
28. COERCED ASSURATIDITY, PRIOR TO - THE - PRELIM., AND / OR SELECTED AFTER AN ENTRAPMENTAL
29. RE-ARREST ON OVER OUR WARRANT / CLAIM (YOU) SAW - IN - COURT, BUT, LATER REVEAL THAT (YOU)
30. WERE AN - IN - HAVE - AROUND. PLUS, THE ILLEGALLY PRIOR REPE VICTIM FRANTICALLY TRIED TO WITHDRAW (HER) - "

(R)

ADDITIONAL REVELATION(S) TO THE
PROSECUTION'S DELIBERATELY/WAN-
ONLY RESORTING TO ACTS-IN-BAD
FAITH WITH INTENTIONAL MIS-
CONDUCT(S) TO TRY-TO JUSTIFY A-
PRE-FABRICATED/VERY TAINTED CON-
-VICTION THRU DIRE TRICKERY-W-
A VERY DIS-SIMILAR/TOO UN-LAW-
FULLY USED VERY DIS-SIMILAR PRIOR
FABRICATED CONVICTION, PROVEN FALSE!
VIA/By WAY OF EXHIBIT(S) NO.

"B"

[AS PER/CONSISTING-OF-(S) Pages, IN (All)]

EXHIBITS

(P. 14)

104-14-08

THOMAS, JAMES EDWARD
 F-21197/A-Y, 6th Bld./PSU./B-SECT. C.120
 C. S. P. AT SACRAMENTO/FOLSOM
 P.O.B. NO. 290066
 REPRESA, CALIFORNIA 95670-0066

HONORABLE JUSTICE PECKUM, PRESIDING
 C.D.: OFFICE - OF - THE CLERK
 U.S. DIST. COURT, FOR NRN. DIST. OF CALIF.
 FED. COURT-HOUSE BUILDING AT
 280 S. First St./San Jose, Cal. 95113-

C. NO. 04:08-CV-01778(?) S.B.A.

RE: THOMAS VS. WALKER, WARDEN - SUPR. G. N. CC-583911 / 1st Dist. Cal. App. 4. H030573 / 5-156953-MP.

Dear Sir(s)/Madame(s), Please be advised that in receipt/compliance with your request's via two (2) letter(s) of, (04-08-08), I am writing to let you know that I have taken certain necessary step to try to comply with your earnest requirement(s), with-in (30) days from (04-03-08), on regarding my attempted to continue/certify my appeal to this great Federal Court via your required/standing order of thru the great writ of Habeas Corpus - N- that was for me/Deft. to forward you/this Court a verified copy of my Instit. Trust Status record on/before (05-03-08) - or my, very meaningful writ would be denied. Also, I received (this/those) Communique(s), some-what, w- a false address - n- w/o - the forms us. Stamped envelope that this Court stated would be in - it/enclosed - but, was not! I just hope that the letters are not completely fabricated - - - just as CDC/Santa Clara Co. is, too famously vindictively noted for ^{for} plus, here-in, I include a short synopsis/run-down of the humorous & atrocious deliberate mis-conduct perpetrated on Deft. by the P.A. & w/ Enforcement Agency of Santa Clara Co. - n- most Co-operate State of Calif. The falsity of my vindictively, capricious - w- vehement spitefulness to the point of n- all out effort(s) to deliberately frame Deft. - n- covertly prevent (him) from appealing the, very, fraudulent conviction(s) - n- very erroneous charges, w- the overt intentions of trying to psych. Deft. out or make it appear that (he) is psychologically/mentally un-bd (12/12/08); As per Deft's. very ill/brutal treatment, Every-where - 2- where/way, simply - because, I refuses to plead guilty or ASK (nor accept - a deal to any/they trumped-up I'll fictitious/made-up charges, just to please/make (their) job - a wee-bit easier so (they) can (they) are blindly, protecting the citizens, at-large. Plus, it can be fully noted that I am severely dis-satisfied - w- the S2. Cl. Co. hired Appeals Att'y. from Alameda, Cal. - - - If there was one (1), does not seem like - it - to Deft. due to - his, too poor, showing there-on, supposedly, on my behalf - but, just like the trials Pub. Def. (He) definitely, had the County's best interests - at - heart, after (He) kept assuring Deft. that (He) could win the said case - w/o - a doubt - n- there would not be any waiver-of-time / He was prepared to go to trial as soon as possible. But, after a deliberate wait/prolonging of the trial while just - fiddling around trying to pressure - Deft. into a deal of (his) choosing, when the Sup. Ct. (2 under Judge realized they, too callous mistake of deliberately over-stepping - the - U.S. Const Rights - of - Deft., said Judge very sternly/vehemently demanded that the D.P.D. convince Deft. to wait time to help the Pros. / flatly refused to bring the real - n- most pertinent, deliberately covered facts - of the earlier dis-

(M. 4) (13)

Respectfully Sub/

P. 16

US. "indicating" "He Had To Eat Like Everybody Else (you-Are-Bit-the-Handes) That Feed You."
 - All these are now being utilized & records do provide past DF (his) USC. Rights - F. U. S. C. & - 14 and 1

BY-WAY OF REMEDIES - ADDENDUM MIS-CONDUCT OF INTERESTS:Re. : THOMAS VS. WALTERS, WARD - CN. 04:08-CV-01778-SBA-:

JUSTIFIABLE AND PERTINENT DELIBERATE MIS-CARRIAGES OF JUSTICES, PERPETRATED - ON DEFT. MALICIOUSLY BY D.D.A., THAT SHOULD BE BEEN RAISED AT TRIAL/ON APPEAL

OVERT FACT(S):

TO: The Honorable Presiding - N. Associate Justices of the U.S. / Fed. Dist Ct, NRM. Dist. of Cal. F. Please be further advised that DEFT/ I AM AN INDIGENT / INCARCERATED INMATE - w/o adequate access to a log library / long research - w/o too many obstacles / stumbling blocks to be, nor where, near the possibility of adequate access to the courts, from a Jail / Prison Cell --- minus, your request for DEFT. to forward this Court a signed / verified statement of (his) Trust Accorded (For / Over) (His) Indigency Status, before (05-03-08); which has been already Filed Pending receipt of same, for scrutiny - n. your disposition --- very hope fully (you) allowing (me) to proceed in Form 2 Petition - n. correcting a wronged / unlawful, dispicable atrocious wanton act / deliberate mis-conduct of Justice - n. staunchly upholding the guaranteed rights of (all) - citizens, be it be a convict or not. It was also, indicated that if I failed to forward the necessary verified copy of my Trust Status, my petition may / would be denied. Therefore, rest assured that I have taken steps to facilitate matter to that end - n. if there is no deliberate hinderance(s), maybe I can get it to you before (05-03-08). Otherwise, I too emphatically, believe / know that I have much more than ample / justified reasons for this Court - w/o any doubts, to readily accept / grant - n. act very favorably on my dire assessment of (all) the wrongs done against me. Purportedly, in the name of / for the purposes of someonest pretending to do an amiable job / using its notoriety to gain an endorsement, regardless of its law enforcement's agency's deliberate mis-treatment of one of the residents. And, clearly noting - as many a times (they) have surveilled me extra closely - w. much harassment - n. unlawful threats of leaving the state, because well no body wants you around - Every where should check to see if there had been any criminality by / at the places (they) observe me frequenting / going, (they) have yet to find any such crimes there - in / on by - but, since I am so dispicable, because of that too false conviction of Rape --- which, now, I hope has been cleared up. Not with standing any moral turpitudinal act against a female - n. small children is considered to be vile - n. too reprehensible - especially, when considered to be done by force - n. violence(s) --- regardless if it is true or not. Plus, the D.A.'s Office is out front known to be deliberately / wantonly - n. criminally tampering - w. my mailing rights - both in - n. out of Jail / Prison. It might be feasible / partly acceptable if I were guilty / committing some forms of mail fraud for the Fed. Authorities to screen it for any detrimental parts / intentions - but, to deliberately deny DEFT. (his) guaranteed rights just for spite / vindictiveness / harassment / pressure because, DEFT. won't accept / ask for no deals for to run his out of the state, is far too insidiously criminally acceptable. Therefore if the said communique I received - w. a fictitious address of Oakland - is any where near correct / feasible --- Then, I put my trust / hopefully a good scrutinized acceptance / review granting (all) aspects of DEFT. contentions of malicious deprivation of due process of law - n. DEFT. shall forever pray that this Court will find more than ample reasons / grounds for

CONT.

17.18

(CONT.) / P. (18)

1. Expected ordered/guaranteed Justice. And, incidentally, the D.D.A. who Prosecuted that Misdemeanor trial(s) in (03/03) - who - any so-called, would-have-been, victim(s)/no reliable eye-witnesses - -- refused to come to court - n- another the said D.D.A. informed the Judge, during jury deliberations that the other, would-be, witness made too many conflicting statements - Plus, he didn't want to testify, but, was deathly afraid of going to jail - on a minor traffic stop - hence his too readily availability to the Prosecution. And, for what - it's - worth, (he) - Also, blatantly let-it-be known that he was the one who solicited that Co-Psychiatrist to Pretend to-be/act as Deft's Appeals Counselor in an attempt to try to find out about me - n- stop that Misdemeanor Appeal - because (he/the D.A.) felt that I botched him/he botched the job. It, also, readily appears that (All) the Pub. Def. - n- that/those, would-have-been, dedicated Appeals Counselors only wanted to do was gain your confidence/dissabusions you/ours) so you would give up - n- accept some kind of a worthless deal(s). And, believe - you/me, I had far too many D.D.A. approaching me trying to persuade me not to go to court or contest the said mis-leading/fabricated charges - -- Just like all during the Proceedings of the last Parcel/Sham - of a, would-be trial - But, not as bad/Completely - as - bad as that last Misdemeanor trial of (All) substituted, purported victims/Pol. Mr. OFFS - n- eye-witness, and would believe it, never, that the D.A. flatly refuses to allow Deft. to appeal those/the overt fabricated/delusional convictions. The Appeal Process was, supposedly, begun, (03-20-06) - n- on, (10-10-06), I was too hastily/forcibly removed off of my imprisoned main line status - n- unknowingly house in - Ag. Sery - n- told that I was being released to the community very soon - but, kept being moved to lock-up to lock-up, there - after certain inmates kept demanding to be housed w- me - n- for no apparent reason they would start an altercation for just hints/prove (their) toughness. One even claimed that some new bald-headed Sgt. told him that (he) should beat the living s- - t out of me/no one liked me! Then (21) those persons from the Co. B. FBI Agency especially, that one OFF, who ever he claimed to be - definitely - did not appear - to - be Pol. OFF. C. Brian's, appeared wearing (his) gun Scarfard, 23 in 24 trial, came straight to the cell that I was forced to be housed in/pulled (all) Partner out, took (it/him) down near the shower area, he - n- another, must have given (it/him) a Pol. Talk, because (he) returned (all) bent out of shape, ordering me to vacate (his) cell or else it would happen just like it did with the other friends (ones of his) did. That when (all) the known - down/excavating drag-out started - n- if for no other reasons than to - see if I were breathing/a blood pressure check/just a temp. check to be Psycho Eval./un-lawful Med. test or just to get a whiff of late-night cold/snowy air. All the while overtly - n- psychologically, kept assing/mercilessly pillaging Deft. to no ends, then - Oh? So, candidly soliciting other inmates to ask Deft. how much was some suit going to cost the County? After about (6) months (they) decided to send Deft. to this maximum security inst. for E.O.P. treatment, again, claiming that I would-be released very soon. But, after receiving so many of those Art. 6's request for an un-supported confinement - n- the, off-the-wall way that Co. hired/b.A supervised Counselor kept wanting (me) to believe (I had) to (hand) in a 100 author had to do was invest. like the court did - w- start revealing

(CONT.)

(W)

(P. 19)

1.
2.
3. After all the above Mis-use-of-Power/over Mis-Carriages, deliberately,
4. -of Justices-in-very Factual Revelation(s) - - - of which, can be Amicably
5. checked-out/Just like the Appellate Ct. was supposed to have conducted 2nd
6. Indep. Invest. - w-very Startling Further Favorable Factual Clear-ups. And,
7. Since the D.P.D. Flatly refused - Just 25(All) the, would-be, Appeals did-to Pro-
8. duce 2 workable - n-adequate Defense - because it was too very APPARENT that
9. (they) had the Co./D.A.'s Interest-At-heart, only? - - - NO GAINS, NO PAINS"
10. NO WORK FOR THE MASTER - Even IN THE RZIN, No-Get-Paid, Everything Remains Same.
11. And unless This Court accepts DEFT.'S Conflict-of-Interests Contention, No-can-
12. raise additional most pertinent grounds. Therefore DEFT. Brings (them) to Courts attention -
13. 2). The Flat refusal of Co. D.P.D. to bring to the Ct's/Jury's attention - n-appeals Ct., the fact of
14. the overt Mis-Id - n-dismissal there-for - w-the gross entrapmental re-arrest - w-
15. 2 fictitious new Msdms. Charge, purely Fabricated - where 25, the, so-called With.
16. claim that (he) only observed an intruder, in darkness, standing 2 way from Foot
17. of bed waving hand skyward frantically - n- only assumed that (it) had on
18. his old B.B. Black-n-White Cap - w- an inspection, there-of - wearing a -
19. light green top - n- after DEFT. was inadvertently arrested some-where in.
20. that area, trying lose (his) too every present trails/the main reason, apparently,
21. why (he) confirmed (his) glimpse-in-darkness ID, was because the Ar. off. was deliberately
22. Brutally mis-handling DEFT - n- the 290 PC. was revealed - hence the guessable Att
23. empted Rep - his - n- Jail-cell re-affirmation of one-man, in shackles, Show-up.
24. b). The charges included 2 convenient 220 PC., to add Cr 2nce to the only other
25. too Petty/un-thinkable theft-of-2 cheap B.B. Cap - w- any indication/proof that
26. DEFT. had/was in possession of same - - - Not possible (all) the Appx. (8) resi-
27. dents - n- telling Police should attest to that true fact since I wore the same
28. clothes 2 few minutes prior - n- definitely had on 2 Dark Grey - n- Pink sweater
29. - w-(2ny) head covering or nothing s-on - my hands prevent leaving any
30. Fin. Prints - 25. the Det. wanted to keep forcibly taking more, because other no-match?
31. And the minute (he) yelled out, the intruder, supposedly, quickly fled - n- after
32. very noticeably waiting to see if it was 2 f, (he) slowly approached bath-
33. room, found it - to - be - empty (dressed in darkness) called Police, informed of
34. some intruders present/left via front door/after all the time 12PSE, he saw 2-
35. Person speedily running down street informed Pol. of same - n- after (they)
36. started searching, every-which-2way, (they) got 2n urgent call for (them) to
37. please remove Party From outdoors toilet, the occupant wanted to use it: - - -
38. Noting - the Sgt-in-Charge very seriously rejected (his) (his) Follow-up Infr. ID.
39. c). Here, it is only fair to mention that the ability to see clearly, is considered
40. acceptable 25 A positive/reliable I.D. 24 2 close-enough proximity, definitely.
41. No in darkness - w- Police's Show of great Brutality - n- un-authorized informing of
42. DEFT. 2 too disgraceful 290 PC. Status/one-man Show-up in Jail cell, where
43. DEFT. had maximum Security Status, 21w2y6 - in shackles/NOT supposed to be celled
44. - w- any others un-less similarly chained: And during the trial the Judge
45. wantonly/un-authorizedly, allowed the DD A. to enter 2 Prior Rep to illegally
46. Support only 2 Pre-Fabricated/guessable/200 spitefully assumption 26PC 220 PC. only
47. - No way near allowable the charges has to be same - Not just any Moral
48. d). And it was revealed that the Fabricated (Hypothesis) With was Proven False test, many of -
49. of the Mis-Carriage - n- Bad Faith, DEFT. relies on this case, very

(X)

IN THE UNITED STATES DISTRICT COURT
THE NORTHERN DISTRICT OF CALIFORNIA

THOMAS, JAMES EDWARD

Petitioner,

V.

Respondent.

Case # 04-08-CV-1218-SBAREQUEST FOR APPOINTMENT
OF COUNSELWARDEN - WALKER, C.S.P. SAC. / POL.

Petitioner is proceeding pro se and in forma pauperis with an application for writ of habeas corpus pursuant to 28 U.S.C. S 2254. Congress has authorized the appointment of counsel in section 2254 proceedings to represent indigent petitioners when the interests of justice so requires. 18 U.S.C. S 300(A) (2) (B). Petitioner avers that the interests of justice require that counsel be appointed, in that:

1. Petitioner is not trained in the law and has limited law library access for purposes of researching the law and preparing pleading;

2. Petitioner's application for habeas relief states a prima facie case that petitioner has been and is being deprived of liberty in violation of the Constitution of the United States; and

3. Respondent has the benefit of counsel.

Accordingly, petitioner request the appointment of counsel pursuant to rule 8(c) Rules Governing Section 2254 Cases.

DATED: April 14, 2008

(P. 20)

PETITIONER: James Edward Thomas

(N)

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

THOMAS, JAMES EDWARD
Petitioner,

v.

WALKER, J. WARREN OF AM CSP SAC/Folk.
Respondent

Case No: 04,08-CV-1778-SBA
U.S.D.F. N.Y. D. OF Ctl, S.F.C.

PROOF OF SERVICE

I the undersigned, here by certify that I am over the age of eighteen years, and I (am) (~~am not~~) a party to the above entitled action.

On April 14, 2008, I served a copy of:

My Petition For Continues Appeal of My Too Fraudulent/Atrocious Convictions.

Plus/2nd Parts Specifically requested by This Court to Facilitate Acceptance/Guarantee review

By placing said copy in a postage paid envelope addressed to the person hereinafter listed, by depositing said envelope in the United States mail:

1. Original (1) copy: To:

Office - of - The - Clerk
To The Honorable Presiding Justice
U.S. Fed. Dist. Court, For The N.W. Dist
of Cal.
280 So. First St./520 Jose, C208, 9543

2. 1 copy - C21 State Atty. Gen.

455 Golden Gate Ave S.F. C21

1 copy To Judge Ay. Brydan, Pres.

S.C.S. Superior Ct. Dept. p. 36

190 W. Hedding St./5 J. C21 95110

Copy To Self Ould only.

copy + copy to Dept.

I declare under the penalty of perjury that the foregoing is true and correct.

(P. 211)

04-14-08

(Signature)

Declarant
James Edward Thomas

AS HEREIN SHOWN - I Deeply Regret - That This - Here - Attached Copy - Is Not A - True Copy
 FOR: SUPERIOR COURT JUDGE -- HONORABLE A. Y. BRYAN - N - (MS) Guy Goenne, NGPT N. 36 ST.C.
 (07-14-08)

Re: THOMAS VS. S2, C12, Co. ? SUP. CT. C.N. CC 983911 (03-20-06) It Remains A Day?

A Willing Pearl - - - No - Way, Jose! But, Just (me) Here Reminiscing
 About One - Golden - Curl, So Here Da Schoop - N - Dey/-w/lo - A Swirl -
 - - - Hello mi Good - oh - Timing Girl, Again - N - Again! Definately, Not
 Our Shaddy - budy - OF Mulbeery Lane - But, IF Multi - Berries Were
 As Sweet As Sugar Cane Your, Too Suave dispising B19, Too much C2 + 220 -
 Juous mi, Thinks OF ye Jus Der Shame - - - But, Since (you/All) Still
 Hate - me - To/in/under Hades/ Far - Over - Der Rainbow - Oooh, Wee,
 Just How bow C2N (my) Wayward H - - - (Est) Go! Bet (your) Like-
 ness I much, To Busy To Hop - A - Fast - Moving Train OR EVEN TO
 lazy To Hi - Jack A very slow - movin Plane - - - Wh2t s2 - Matter
 - - - Angel? Got Rested From Lifting Too Many Cof - - - CUPS,
 Since ye Claims To Fame OF Lifting .5 000, 000, 000 Pbs A Day
 Bench - pressing or could Dat ve chair - HOPPING?? GYPO - I Bet
 (your) Head Sure I kept Strong. Therefore - w/lo - or simply - w - Toggling
 10,000 Miles A Minute IS, Too Definately, Slow - For (your) Most
 Honery Bossa - Hu - - - WHOOPS - - - Must Be Getting My Tail
 mixed - UP - w - De Haze - - - N - Dat's Eh? Hold - ON, Don't Go Blow -
 Ing No Fuse 2nd/or Gasket It's Far To Much Electricity, Trying Sear
 my Brain Neurons/-N- Dem Protonic Mexiacs Are Too Electrifyingly So,
 To, Even Emmitt Der Hate Full waivers. So, DON'T - GO - N - Put yer - self
 OUT By Trying, Desperately, To Wish - me - Well or To, Absolutely Go To
 H - - - (Gdes)? Just Don't Get yer Damper - UP, Too Low - - - For
 (you) Kno - Dis - Ol Fool IS only messing - w - you/All - - - (A Pecci)?

Mon Sherrrie - - - And Before (you) Call - out Der Gernerdamer - - -
 I want Hit - Down 20 Writing How To Burk - me - So - - - "S2 - b2 - Ver", Always Coming
 To ye - - - After All Said - - - IM Done - - - "Forever Wish ye - All - oh? So, Well"

Re: THOMAS VS. WALKER, WARDEN OF CSP.

CAL. U.S. DIST. CT. C/N-04:08-CV-1778-SBA

HERE-IN

ORIG. PETITION T. CT.

CONTAINS (49) Pgs.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

INSTRUCTIONS FOR FILING A PETITION FOR A WRIT OF HABEAS CORPUS
BY A PERSON IN STATE CUSTODY UNDER 28 U.S.C. §§ 2254

ATTN: Clerk of the Court Petition of - Request Financial Status -
is here-in contained, plus this is a more comprehensive

I. Scope of 28 U.S.C. §§ 2254 Prepared Petition then the one(s) already on file.

You may file a petition for a writ of habeas corpus under 28 U.S.C. §§ 2254 if you are in custody pursuant to the judgment of a state court in violation of the federal Constitution or federal laws. You may challenge either the fact or duration of your state sentence; however, any challenge to violations of the federal Constitution or federal law that affects the conditions, as opposed to the fact or duration, of your confinement should be brought in a civil rights complaint under 42 U.S.C. §§ 1983. If you want to file a civil rights complaint under 42 U.S.C. §§ 1983, you may do so on forms provided by the clerk of the court.

Note that a petition for a writ of habeas corpus under 28 U.S.C. §§ 2254 will not be granted unless it appears that you have exhausted the remedies available in state court.

II. Filing a Petition

To start a habeas action, you must send the court the following items: (1) an original petition and (2) a check or money order for \$5.00 or an original Prisoner's Application to Proceed In Forma Pauperis. In addition to these instructions, this packet includes a petition for a writ of habeas corpus form and an Application to Proceed In Forma Pauperis. You must use the forms provided with this packet and not any other version. You should keep a copy of the petition and in forma pauperis application for your own records.

When you have completed the forms, mail the originals to Clerk of the United States District Court for the Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102.

NOTE: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).

III. Filing Fees

In order for the petition to be filed, it must be accompanied by the filing fee of \$5.00. If you are unable to pay the filing fee, you may petition the court to proceed in forma pauperis. A Prisoner's Application to Proceed In Forma Pauperis form for this purpose is included in this packet. You must complete the application, sign it and declare under penalty of perjury that the facts stated therein are correct. File the application with your petition and keep a copy for your records.

IV. Petition Form

Your petition must be legibly handwritten or typewritten, and you must sign it and declare under penalty of perjury that the facts stated in it are correct. Read the entire petition form before answering any questions. You will note that brief explanatory comments appear throughout the form. Read these carefully before you answer the questions because they are intended to help you fill out the petition as well as ensure that you file your petition in the proper court.

(P. 1)

Case 1:08-cv-03565-SBA
HALL OF JUSTICE
SUPERIOR COURT
191 N. FIRST STREET
SAN JOSE, CA 95113



Document 1-2

Filed 07/25/2008

Page 1 of 2



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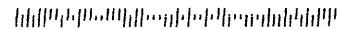
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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

United States District Court
For the Northern District of California
280 S. 1st St., Rm. 2112
San Jose, CA 95113





Superior Court of California
County of Santa Clara

Hall of Justice -Criminal Division
191 North First Street
San Jose, CA 95113

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JUL 21 2008



RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

July 17, 2008

United States District Court
For the Northern District of California
280 S. 1st St., Rm. 2112
San Jose, CA 95113

MEMO


TO: Clerk's Office

FROM: Superior Court of California, Santa Clara County
Hall of Justice Facility

RE: Petition for Writ of Habeas Corpus, James Edward Thomas, petitioner

The attached Petition was submitted to the Superior court on or about July 15, 2008. Our staff attorney and writ judge have determined that this petition should be lodged with the U.S. District Court.

Thank you,


Nick Resz
Legal Process Supervisor
408-808-6612